



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,585	02/06/2004	Dennis B. Jenkins	430.190	6736
7590 JOEL J. HAYASHIDA CORPORATE PATENT COUNSEL THE CLOROX COMPANY P.O. BOX 24305 OAKLAND, CA 94623-1305			EXAMINER MERCIER, MELISSA S	
			ART UNIT 1615	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 31 DAYS		MAIL DATE 02/05/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/773,585

Applicant(s)

JENKINS ET AL.

Examiner

Melissa S. Mercier

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-113 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-113 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1-98 and 100-113, drawn to absorbent compositions, classified in class 424, subclass 076.1.
- II. Claim 99, drawn to a litter box, classified in class 119, subclass 165.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product, and the species are patentably distinct (MPEP § 806.05(j)). In the instant case, the intermediate product is deemed to be useful as an odor absorbent material and the inventions are deemed patentably distinct because there is nothing on this record to show them to be obvious variants.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction were not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

If applicant elects Group I then Applicant must further elect from the following patentably distinct species:

Art Unit: 1615

a. claims 1-20 and 102-104 drawn to an absorbent composition comprising particles of an absorbent material and 0.01% to about 50% activated alumina particles

b. claims 21-39 and 100 drawn to an absorbent composition comprising 0-50% of at least one additive and up to 100% activated alumina

c. claims 40-98 drawn to a composite particle comprising an absorbent material formed into a particle and activated alumina added to the absorbent material

d. claims 101 drawn to an absorbent composition comprising particles of an absorbent material and secondary particles selected from a group consisting of activated alumina and zeolite.

e. claims 105-112, drawn to an absorbent composition comprising particles of an absorbent material and colored particles mixed with the particles of absorbent material

The species are independent or distinct because they have materially different designs.

If applicant elects Group a, the following elections are required:

An absorbent composition further comprising:

1. a performance-enhancing active (claim 5)
2. a color altering agent (claim 6)
3. a color altering agent applied to the at least one of activated alumina and zeolite (claim 104)

Location of activated alumina:

1. coated on the particles of absorbent material (claim 14)
2. mixed together with absorbent material (claim 15)

Art Unit: 1615

If Applicant elects Group b, the following elections are required:

An absorbent composition further comprising:

1. water swellable clay particles (claim 22)
2. a performance-enhancing active (claim 26)
3. a color altering agent (claim 27)

Location of activated alumina:

1. coated on the particles of absorbent material (claim 32)
2. mixed together with absorbent material (claim 33)

If applicant elects Group c, the following elections are required:

An absorbent composition further comprising:

1. a performance-enhancing active (claim 46)
2. a color altering agent (claim 47)

Location of activated alumina:

1. sprayed on the particles of absorbent material (claim 49)
2. dry blended with absorbent material (claim 50)
3. substantially homogeneously dispersed throughout at least a portion of the absorbent particle (claim 57)
4. physically dispersed in at least one layer (claim 58)
5. physically dispersed in pockets of particles (claim 59)
6. physically dispersed in at least one position selected from along surfaces of the particle and contained within pores of the particle (claim 60)

Type of core:

Art Unit: 1615

1. absorbent core, the absorbent material being coupled to the core (claim 61)
2. non-absorbent cores, the absorbent material being coupled to the core (claim 62)
3. hollow core, absorbent material being coupled to the core (claim 63)
4. comprised of a pH-altering material, absorbent material being coupled to core (claim 70)
5. multiple cores, the absorbent material being coupled to the cores (claim 74)

Thickness of shell on core:

1. at least about four times the average diameter of the core (claim 64)
2. between about 1 and about 4 times the average diameter of the core (claim 65)
3. less than the average diameter of the core (claim 66)
4. less than about one half the average diameter of the core (claim 67)

Density of the core:

1. heavy core (claim 68)
2. lightweight core (claim 69)

Method of formation of particle:

1. pan agglomeration (claim 86)
2. high shear agglomeration, low shear agglomeration, high pressure agglomeration, low pressure agglomeration, rotary drum agglomeration, fluid bed agglomeration, mix muller agglomeration, roll press agglomeration, pin mixer

agglomeration, batch tumble blending mixer process, extrusion process and fluid bed process (claim 87).

If Applicant elects group d, no additional election is required.

If applicant elects group e, no additional election is required.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa S. Mercier whose telephone number is (571) 272-9039. The examiner can normally be reached on 7:30am-4pm Mon through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone

Art Unit: 1615

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MSMercier



Namudi S. Kishore, PhD
Primary Examiner
Group 1600